

Department of State

§ 41.31

but does not reside. Certain aliens in the United States may be issued official visas by the Department under the provisions of § 41.111(b).

(c) *Classes of aliens eligible to receive official visas.* (1) A nonimmigrant within one of the following categories who is not eligible to receive a diplomatic visa shall, if otherwise qualified, be eligible to receive an official visa irrespective of classification of the visa under § 41.12:

(i) Aliens within a class described in § 41.26(c)(2) who are ineligible to receive a diplomatic visa because they are not in possession of a diplomatic passport or its equivalent;

(ii) Aliens classifiable under INA 101(a)(15)(A);

(iii) Aliens, other than those described in § 41.26(c)(3) who are classifiable under INA 101(a)(15)(G), except those classifiable under INA 101(a)(15)(G)(iii) unless the government of which the alien is an accredited representative is recognized *de jure* by the United States;

(iv) Aliens classifiable under INA 101(a)(15)(C) as nonimmigrants described in INA 212(d)(8);

(v) Members and members-elect of national legislative bodies;

(vi) Justices of the lesser national and the highest state courts of a foreign country;

(vii) Officers and employees of national legislative bodies proceeding to or through the United States in the performance of their official duties;

(viii) Clerical and custodial employees attached to foreign-government delegations to, and employees of, international bodies of an official nature, other than international organizations so designated by Executive Order, proceeding to or through the United States in the performance of their official duties;

(ix) Clerical and custodial employees attached to a diplomatic mission of a temporary character proceeding to or through the United States in the performance of their official duties;

(x) Clerical and custodial employees attached to foreign-government delegations proceeding to or from a specific international conference of an official nature;

(xi) Officers and employees of foreign governments recognized *de jure* by the United States who are stationed in foreign contiguous territories or adjacent islands;

(xii) Members of the immediate family, attendants, servants and personal employees of, when accompanying or following to join, a principal alien who is within one of the classes referred to or described in paragraphs (c)(1)(i) through (c)(1)(xi) inclusive of this section;

(xiii) Attendants, servants and personal employees accompanying or following to join a principal alien who is within one of the classes referred to or described in paragraphs (c)(1)(i) through (c)(1)(xiii) inclusive of § 41.26(c)(2).

(2) Other individual aliens or classes of aliens are eligible to receive official visas upon the authorization of the Department, the Chief of a U.S. Diplomatic Mission, the Deputy Chief of Mission, the Counselor for Consular Affairs, or the principal officer of a consular post not under the jurisdiction of a diplomatic mission.

[52 FR 42597, Nov. 5, 1987; 53 FR 9111, Mar. 21, 1988]

Subpart D—Temporary Visitors

§ 41.31 Temporary visitors for business or pleasure.

(a) *Classification.* An alien is classifiable as a nonimmigrant visitor for business (B-1) or pleasure (B-2) if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(B), and that:

(1) The alien intends to leave the United States at the end of the temporary stay (consular officers are authorized, if departure of the alien as required by law does not seem fully assured, to require the posting of a bond with the Attorney General in a sufficient sum to ensure that at the end of the temporary visit, or upon failure to maintain temporary visitor status, or any status subsequently acquired under INA 248, the alien will depart from the United States);

(2) The alien has permission to enter a foreign country at the end of the temporary stay; and

(3) Adequate financial arrangements have been made to enable the alien to carry out the purpose of the visit to and departure from the United States.

(b) *Definitions.* (1) The term “business,” as used in INA 101(a)(15)(B), refers to conventions, conferences, consultations and other legitimate activities of a commercial or professional nature. It does not include local employment or labor for hire. For the purposes of this section building or construction work, whether on-site or in plant, shall be deemed to constitute purely local employment or labor for hire; provided that the supervision or training of others engaged in building or construction work (but not the actual performance of any such building or construction work) shall not be deemed to constitute purely local employment or labor for hire if the alien is otherwise qualified as a B-1 nonimmigrant. An alien seeking to enter as a nonimmigrant for employment or labor pursuant to a contract or other prearrangement is required to qualify under the provisions of § 41.53. An alien of distinguished merit and ability seeking to enter the United States temporarily with the idea of performing temporary services of an exceptional nature requiring such merit and ability, but having no contract or other prearranged employment, may be classified as a nonimmigrant temporary visitor for business.

(2) The term *pleasure*, as used in INA 101(a)(15)(B), refers to legitimate activities of a recreational character, including tourism, amusement, visits with friends or relatives, rest, medical treatment, and activities of a fraternal, social, or service nature.

[52 FR 42597, Nov. 5, 1987; 53 FR 9172, Mar. 21, 1988]

§ 41.32 Nonresident alien Mexican border crossing identification cards; combined border crossing identification cards and B-1/B-2 visitor visa.

(a) *Border crossing identification cards (BCC)*—(1) *Posts authorized to issue.* Consular officers assigned to consular offices in Ciudad Juarez, Hermosillo, Nuevo Laredo, Matamoros, and Tijuana may issue a nonresident alien border crossing identification card (BCC), as

that term is defined in INA 101(a)(6), to a nonimmigrant alien who:

(i) Is a citizen and resident of Mexico; and

(ii) Is a temporary visitor who, if applying for a B-1 or B-2 visitor visa for business or pleasure, would be eligible to receive such visa.

(2) *Procedures for application.* A citizen of Mexico shall apply for a BCC on Form OF-156, Nonimmigrant Visa Application. The application shall be supported by:

(i) Evidence of Mexican citizenship and residence;

(ii) A valid or expired Mexican Federal passport or a valid Mexican identity document (Form FM13); and

(iii) One photograph (1-½-inches square), if the alien is 16 years of age or older. Each applicant shall appear in person before a consular officer and be interviewed regarding eligibility for a temporary visitor visa, unless personal appearance is waived by the officer.

(3) *Issuance and format.* A Mexican BCC shall consist of a stamp placed in the alien's valid or expired Mexican Federal passport or valid Mexican identity document by a consular officer stationed at one of the posts designated in paragraph (a)(1) of this section. The stamps shall be numbered serially by each consular office beginning with the number “1” on October 1 of each year. They must be in the format prescribed by the Department and contain the following data:

(i) Post symbol;

(ii) Number of the card;

(iii) Title and location of the issuing office;

(iv) Date of issuance;

(v) Name(s) of the person(s) to whom issued; and

(vi) Signature and title of the issuing officer.

(b) *Combined border crossing identification cards and B-1/B-2 visitor visas (B-1/B-2—BCC)*—(1) *Posts authorized to issue.* Consular officers assigned to any consular office in Mexico may issue a nonresident alien border crossing identification card, as that term is defined in INA 101(a)(6), in combination with a B-1/B-2 nonimmigrant visitor visas (B-1/B-2—BCC, to a nonimmigrant alien who:

(i) Is a citizen of Mexico;